



# Contemplated Risk Rule Changes



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# CAVEAT

2

- The following presentation is an overview of rule changes that are currently under consideration—they must not be considered final or binding.
- Prior to publication of any final rules, the Division of Risk Management must obtain the approval of the Executive Director of the Department of Administrative Services and legal counsel of the Governor's Office.
- Meanwhile, you are invited to provide preliminary feedback to [benelson@utah.gov](mailto:benelson@utah.gov).

# New GIAU Caps

3

- Rule R37-4-2, effective July 1, 2016
- Personal injury damage limit:
  - \$717,100 for one person in any one occurrence
  - \$2,455,900 aggregate amount of individual awards that may be awarded in relation to a single occurrence
- Property damage limit:
  - \$286,000 in any one occurrence

# Underwriting/Risk Control Standards

4

Long defined in Rule R37-1-3 as an action or procedure which must be performed in order to reduce the risk of loss or to avoid the imposition of coverage restrictions, deductibles, increased premiums, or loss of credits or dividends.

# Risk Control Committees

5

- Risk Control Standards (R37-1-7)
  - **Mandatory** participants in each entity's Risk Control Committee:
    - ✦ Risk Coordinator
    - ✦ Maintenance/Facilities Director
    - ✦ HR Director
    - ✦ ADA/Civil Rights Coordinator/Director
    - ✦ Safety Director
    - ✦ **Fleet/Transportation Manager/Director**
    - ✦ Internal Auditor
    - ✦ **Finance/Accounting Office Representative**
    - ✦ **Employee Representative**
    - ✦ Legal counsel (ex-officio)

# Risk Control Committees (cont'd)

6

- Risk Control Standards (R37-1-7)
  - Recommended permanent or ad hoc appointments:
    - ✦ Department heads
    - ✦ Division directors
    - ✦ Operations managers
    - ✦ Supervisors

# Risk Control Committees Duties

7

- Rule R37-1-7(5)(f):
  - Review reports and recommendations from the Driver Safety committee and others regarding driving behaviors and accident records of employees and recommending that employees be restricted from operating a motor vehicle on entity business.

# Drivers' History/Licenses

8

- Rule R37-1-8(4):
  - Must conduct driver's license verification checks on all new employees and students before allowing them to operate **a motor vehicle** on entity business.
  - Must obtain motor vehicle records and verify the driver's license status of all employees who operate **a motor vehicle** on entity business.



# Age/Licenses

9

- Rule R37-1-8(5):
  - Covered entities shall establish and enforce policies and procedures to ensure that all employees or students **are 18 or older** and have a valid driver's license before allowing them to operate **a motor vehicle** on entity business.

# Out-of-State Travel

10

- Rule R37-1-8(9):
  - Employees and students must obtain prior approval from the executive officer or designee;
  - Permissible where incidental to employees' essential employment duties or fundamental to entity's mission.

# Out-of-Country Travel

11

- Rule R37-1-8(10):
  - Must obtain written approval from executive director/designee and State Risk Manager
  - Requests must be submitted at least 30 days in advance of trip
  - Entity must provide proof of appropriate insurance
  - Entities responsible for auto property damage

# Passenger Limitations

12

- Rule R37-1-8(11):
  - Must obtain approval from executive director/designee before transporting any family members, friends, pets, or other persons who are not entity employees or are not directly serving the interests of the state.

# Large-Capacity Passenger Vehicles

13

- Rule R37-1-8(12):
  - All entities are expected to comply with our recently published Large-Capacity Passenger Vehicle Safety Protocols.
  - <http://risk.utah.gov/images/general/LCPV.pdf>

# Remediation and Prevention

14

- Rule R37-1-8(14)(a):
  - Employees or students who are involved in a preventable accident shall not be allowed to operate **a motor vehicle on entity business** until they successfully complete a Fund-approved driver safety training program.
  - This training shall be required **in addition to any agency-imposed discipline or corrective action.**

# Interlock Devices

15

- Rule R37-1-8(14)(d):
  - Employees or students who are required to utilize an interlock device in their personal vehicles may not operate **any motor vehicle** on entity business unless approved by agency management and the Driver Eligibility Board.

# Notification Requirements

16

- Rule R37-1-8(14)(f), (g):
  - Immediate notice to immediate supervisor of moving violations or accidents while operating any motor vehicle on entity business.



# Driver Safety Committee

17

- Rule R37-1-9:
  - Compliance will affect eligibility for premium/deductible discounts
  - Expected to review address driving behavior (accidents/moving violations)
  - Expected to recommend remediation, including discipline

# DSC Composition

18

- Risk coordinator
- Two management representatives
  - Fleet manager
  - Employee supervisor
- HR representative – ex officio

# DSC Protocols

19

- Review reported accidents with employee within five (5) working days
- Determine whether accident was preventable or non-preventable

# Preventable Accident Remediation

20

- 1<sup>st</sup> preventable: letter of warning and Fund-approved remedial training
- 2<sup>nd</sup> preventable (2-year period): 1-day suspension without pay and Fund-approved remedial training
- 3<sup>rd</sup> preventable (3-year period): 3-day suspension without pay and Fund-approved remedial training

# Moving Violation Remediation

21

- 3 or more moving violations in any motor vehicle in 12-month period:
  - Suspend driving privileges and Fund-approved training before reinstating privilege
  - Implement appropriate discipline based upon severity and number of violations

# Telematics

22

- If telematics are utilized, entities must have policies and procedures for monitoring and promptly addressing poor driving behavior.
- Telematics data must be submitted to DSC on a monthly basis for review and recommendations.

# Serious Violations

23

- Suspension of driving privileges and discipline for the following in any vehicle:
  - DUI
  - Reckless Driving
  - Impaired Driving
  - Careless Driving
  - Prohibition on Using Handheld Wireless Communication Device

# Reporting Requirement

24

- **Monthly report**
  - Identifying all DSC participants
  - Summarizing accidents and moving violations
  - Listing root causes of accidents
  - Indicating whether accidents were preventable or non-preventable
  - Summarizing remedial measures, including discipline
  - Due 15<sup>th</sup> of the following month
- **Failure to submit**
  - Accidents deemed preventable
  - Negative impact on premiums/deductibles



# Appeal

25

State Risk can appeal a DSC's accident preventability decision to the Driver Eligibility Board.

# Driver Eligibility Board

26

- Rule 37-1-10
  - 3 voting members
    - ✦ State Risk
    - ✦ Entity Risk or Fleet Coordinator
    - ✦ Entity Management
  - HR representative in advisory capacity

# Driver Eligibility Board Duties

27

- Appeals from State Risk of DSC preventability determinations
- Requests for interlock driving privileges
- Driving behaviors of employees or students with serious violations not remediated by covered entities
- May recommend disciplinary or remedial actions

# Driver Eligibility Board Appeal

28

Participants, including employees, students, and covered entities, may appeal to the DAS Executive Director or Designee.

# Questions?

29